

AMENDED IN SENATE AUGUST 11, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2779**

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**Introduced by Assembly Member Solorio**

March 3, 2010

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An act to add Section 5307.13 to the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2779, as amended, Solorio. Workers' compensation: compound medication.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the administrative director, ~~on or before December 1, 2004, to adopt, after public hearings, a medical treatment utilization schedule, as specified~~ *after public hearings, to adopt and revise periodically an official medical fee schedule that shall establish reasonable maximum fees paid for medical services, drugs and pharmacy services, health care facility fees, home health care, and all other treatment, care, services, and goods, other than physician services.*

This bill would provide that, until the administrative director adopts ~~medical treatment utilization guidelines~~ *a fee schedule* governing compound medication, a compound medication shall be ~~covered~~ *reimbursable* only if there is prior authorization for it as medically necessary, as specified. *The bill would authorize the administrative director to adopt regulations as necessary or convenient to implement the above-described provisions.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5307.13 is added to the Labor Code, to  
2 read:

3 5307.13. (a) Until the administrative director adopts ~~medical~~  
4 ~~treatment utilization guidelines~~ *a fee schedule consistent with the*  
5 *requirements of this section* governing compound medication, a  
6 compound medication shall be ~~covered~~ *reimbursable* only if there  
7 is prior authorization for it as medically necessary ~~based on a~~  
8 ~~determination of all of the following:~~ *pursuant to Section 4610*  
9 *and the compound medication meets all of the following*  
10 *requirements:*

11 (1) All active ingredients in the compound medication are  
12 ~~medications~~ *ingredients in drug products* that have been approved  
13 by the federal Food and Drug Administration (FDA) *or listed by*  
14 *the United States Pharmacopeia.*

15 (2) The compound medication is not a copy or substitute for an  
16 available FDA-approved product.

17 ~~(3) The safety and effectiveness of use of the compound~~  
18 ~~medication for the prescribed indication is supported by~~  
19 ~~FDA approval or adequate medical and scientific research.~~

20 ~~(4)~~  
21 (3) FDA-approved alternatives to the compound medication  
22 have been tried with therapeutic failure or patient intolerance.

23 (b) The maximum allowance for the compound medication shall  
24 not exceed the sum of the amounts that would be allowed for the  
25 ingredient costs and dispensing fee under regulations adopted  
26 pursuant to Section 5307.1.

1 (c) No fee shall be allowed for any compound medication unless  
2 the ~~initial~~ billing for that compound medication includes all  
3 information necessary for calculation of the fee pursuant to this  
4 section ~~and regulations adopted by the administrative director.~~

5 (d) *Nothing in this section shall be interpreted to authorize a*  
6 *nonphysician to reject, as medically unnecessary, an otherwise*  
7 *valid prescription for a compounded medication. To the extent*  
8 *applicable, Section 4610 shall apply to requests for authorization*  
9 *required under this section.*

10 (e) *The administrative director may adopt regulations as*  
11 *necessary or convenient to implement this section.*

12 SEC. 2. This act is an urgency statute necessary for the  
13 immediate preservation of the public peace, health, or safety within  
14 the meaning of Article IV of the Constitution and shall go into  
15 immediate effect. The facts constituting the necessity are:

16 Abusive billing practices for compounded drugs unreasonably  
17 inflate the cost of workers' compensation coverage for employers  
18 and insurers, and leave fewer dollars available for injured workers  
19 to receive in benefits. In order to stop these abusive practices at  
20 the earliest possible time, it is necessary for this act to take effect  
21 immediately.